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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,200	02/13/2001	John D. Winter	06950.0167.DVUS02	9100

7590 05/29/2002

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EXAMINER

POPOVICS, ROBERT J

ART UNIT	PAPER NUMBER
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1723

6

DATE MAILED: 05/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/78/200

Applicant(s)

Winter et al.

Examiner

Popovics

Group Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 30 ^{DAYS} MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☒ Responsive to communication(s) filed on 10/11/01

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 122 - 146 is/are pending in the application.

Of the above claim(s) is/are withdrawn from consideration.

☐ Claim(s) is/are allowed.

☐ Claim(s) is/are rejected.

☐ Claim(s) is/are objected to.

☒ Claim(s) 122 - 146 are subject to restriction or election requirement

Application Papers

☐ The proposed drawing correction, filed on is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. .

☐ Copies of the certified copies of the priority documents have been received

in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: .

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). .

☐ Interview Summary, PTO-413

☐ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other .

Office Action Summary

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DETAILED ACTION***Election/Restriction***

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

<i>Method Species</i>	<i>Corresponding Drawing Figures</i>
1	2a
2	2b
3	2c
4	2d
5	2e

<i>Flight Geometry Species</i>	<i>Corresponding Drawing Figures</i>
i	6
ii	7
iii	8

Applicant is **required** under 35 U.S.C. 121 to elect a single disclosed species *from each of the two groupings above* for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, none of the claims appear to be generic.

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Applicant is advised that a reply to this requirement **must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added.** An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. A telephone call was made to on to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).
4. It is noted that the first page of the specification does not refer to the parent applicant, and that Fig. 1 does not include a "Prior Art" label. Additionally, the use of the trademark ORIMULSION® has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.
- Applicant is encouraged to correct these formalities.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Examiner Robert Popovics whose telephone number is (703) 308-0684, and who can normally be reached at this number from 12:00 A.M. through 6:00 P.M. (EST) M-F.



Robert James Popovics
Primary Examiner
Art Unit 1723

ryp
May 23, 2002